IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 18246 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

CHHAGANBHAI MUMABHAI BHARWAD - Petitioner(s)

Versus

GOMTIBEN GOTABHAI CHAUHAN WD/O GOTABHAI L CHAUHAN & 6 - Respondent(s)

==========

Appearance :

MR TS NANAVATI for Petitioner(s) : 1,
MR JASWANT K SHAH for Respondent(s) :1.1 to 5,
MR ASHISH M DAGLI for Respondent(s) : 6.1 to 6.6

MR SIRAJ GORI, AGP FOR Respondent(s): 7.

==========

CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 15/02/2006

ORAL JUDGMENT

1.Rule. The learned advocate Shri Jaswant K. Shah waives service of notice of rule on behalf of respondents no.1/1 to 5. The learned advocate Shri Ashish Dagli waives service of notice of rule on behalf of heirs of deceased respondent no.6. The learned AGP Shri Siraj Gori waives service of notice of rule on behalf of

respondent no.7. At the joint request of the learned advocates appearing for the parties, the petition is taken up for final disposal today.

2. In the present petition, the petitioner has challenged an order dated 25-05-2005 passed by Gujarat Revenue Tribunal in revision application TEN. B.A. 71/99. By the said order, the Tribunal was pleased to permit withdrawal of the revision application whereas the application filed by the present petitioner for being joined as party-respondent in the revision application was rejected.

3. It is the case of the petitioner that the petitioner has during the pendency of the litigation purchased the land in question. It was stated before the Court that no proceedings have been initiated by the land owners to challenge such sale deed. The learned advocate Shri Jaswant Shah however, submitted that the original land owners have already instituted a Civil Suit being Special Civil Suit No.46/2005 before the learned Civil Judge(JD), Kheda.

4. Be that as it may, the contention of the petitioner in

the present petition is that the petitioner was a necessary party in the proceedings before Gujarat Revenue Tribunal and the Tribunal erred in making certain observations about the locus standi of the petitioner to participate in the on going litigation.

5. Ordinarily, when the applicant before the Gujarat Revenue Tribunal had chosen to withdraw the revision application and Gujarat Revenue Tribunal had turned down the application of the present petitioner for being joined as party-respondent in such revision application, this Court would not have entertained the present petition. However, while permitting the original applicants to withdraw the revision application and turning down the request of the petitioner herein to be joined as party-respondent in the revision application, Gujarat Revenue Tribunal made certain observations with respect to the locus standi of the petitioner to participate in the litigation itself. The learned advocate for the petitioner therefore, is correctly apprehensive about such observations and the effect the same would have on any demand that the petitioner may make to join himself as party-respondent before the Mamlatdar and ALT before

whom the proceedings would now proceed pursuant to withdrawal of the revision application before Gujarat Revenue Tribunal.

6. In fitness of things therefore, after hearing all sides, I find it appropriate that the petitioner should be permitted to be joined as party-respondent before Mamlatdar and ALT before whom the pending proceedings would proceed further under section 70(b) of the Bombay Tenancy and Agricultural Lands Act. For the above purpose if the petitioner makes an application to the Mamlatdar and ALT to join him as party-respondent in the said tenancy case within a period of two weeks from today, same shall be granted. Nothing stated in this order will effect the rights and contentions of both the sides.

7. With these directions, the petition is disposed of. Rule is made absolute to the above limited extent with no order as to costs.

Direct service to respondent no.7 is permitted.

(Akil Kureshi,J.)

(raghu)